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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2011-768

12 **PAMELA RETREIVA EVANS**
13 **2226 Edgehill Road**
14 **Salina, KS 67401**

A C C U S A T I O N

15 **Registered Nurse License No. 481677**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
24 Nurse License Number 481677 to Pamela Retreiva Evans (Respondent). The Registered Nurse
25 License expired on June 30, 2010, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

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REGULATIONS

7. California Code of Regulations, title 16, section 1443 states, in pertinent part:

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

8. California Code of Regulations, title 16, section 1443.5 states, in pertinent part:

A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

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1 (1) Formulates a nursing diagnosis through observation of the client's
2 physical condition and behavior, and through interpretation of information
3 obtained from the client and others, including the health team.

4 (2) Formulates a care plan, in collaboration with the client, which ensures
5 that direct and indirect nursing care services provide for the client's safety,
6 comfort, hygiene, and protection, and for disease prevention and restorative
7 measures.

8 (3) Performs skills essential to the kind of nursing action to be taken,
9 explains the health treatment to the client and family and teaches the client and
10 family how to care for the client's health needs.

11 (4) Delegates tasks to subordinates based on the legal scopes of practice of
12 the subordinates and on the preparation and capability needed in the tasks to be
13 delegated, and effectively supervises nursing care being given by subordinates.

14 (5) Evaluates the effectiveness of the care plan through observation of the
15 client's physical condition and behavior, signs and symptoms of illness, and
16 reactions to treatment and through communication with the client and health team
17 members, and modifies the plan as needed.

18 (6) Acts as the client's advocate, as circumstances require, by initiating
19 action to improve health care or to change decisions or activities which are against
20 the interests or wishes of the client, and by giving the client the opportunity to
21 make informed decisions about health care before it is provided.

22 COSTS

23 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

27 FACTS

28 10. On February 22, 2005, at 0130 hours, Patient C.K. was admitted at Long Beach
Memorial Medical Center for the birth of her second child. Upon admission to the Medical
Center, Patient C.K.'s cervix was dilated to 2cm. Patient C.K.'s labor progressed slowly
throughout the day and she had an epidural when she was 5cm dilated. At approximately 1900
hours, Respondent was assigned to provide nursing care to Patient C.K. during the delivery of her
baby. During labor, Respondent instructed Patient C.K. on how to breathe and when to "push" in
anticipation of the birth of the baby. Patient C.K. "pushed" for approximately two hours. At
approximately 2100 hours, Patient C.K. told Respondent that the baby felt extremely heavy and
that she was in excruciating pain. Patient C.K. also told Respondent that she lacked the strength

1 to continue "pushing" and wanted an option other than a vaginal delivery. After an examination
2 by her doctor, her doctor informed Patient C.K. that the baby was not "turning" and after noting
3 Patient C.K.'s state of distress and acknowledging her desire to have a Cesarean Section, the
4 doctor instructed Respondent to prepare Patient C.K. for a Cesarean Section and the doctor left
5 the room. Respondent did not know how to prepare Patient C.K. for a Cesarean Section and had
6 trouble with the hospital's computer and had to consult with another nurse regarding the proper
7 procedures. Despite the doctor's orders for a Cesarean Section, Respondent insisted that Patient
8 C.K. continue "pushing" and told the patient that she was not trying hard enough. Respondent
9 was rude and yelled at Patient C.K. to continue pushing and not give up. As Respondent was
10 upsetting Patient C.K. and was not being helpful, the patient's mother went to get the doctor.
11 When the doctor and the patient's mother returned to the delivery room, the top of the baby's
12 head was showing. At 2319 hours, the doctor delivered a baby boy vaginally after performing a
13 midline episiotomy. The baby weighed 11 pounds and was 23 inches long. The baby's Apgar
14 scores were 6 and 9. During the birth, the baby suffered shoulder dystocia resulting in a brachial
15 plexus injury affecting his left arm. The baby had to have surgery to his left arm to repair the
16 brachial plexus injury.

17 FIRST CAUSE FOR DISCIPLINE

18 (Incompetence)

19 11. Respondent is subject to disciplinary action under Code section 2761(a)(1) for
20 unprofessional conduct in that she was incompetent in the nursing care she provided to Patient
21 C.K. on February 22, 2005, while working as a registered nurse at Long Beach Memorial Medical
22 Center. The circumstances are more fully set forth in paragraph 10 above, and incorporated
23 herein by reference, and as follows.

24 12. Respondent was incompetent when she failed to have the required knowledge to
25 appropriately prepare Patient C.K. for a Cesarean Section and for failing to know how to work the
26 hospital's computer system. Respondent required consultation with other nurses.

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1 13. Respondent was incompetent when she continued to demand that Patient C.K.
2 continue pushing when a Cesarean Section had been ordered by the patient's doctor. Respondent
3 should have positioned Patient C.K. on her side and encouraged her to breathe through
4 contractions.

5 SECOND CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct)

7 14. Respondent is subject to disciplinary action under Code section 2761(a) for
8 unprofessional conduct in that Respondent acted unprofessionally in the nursing care she
9 provided to Patient C.K. on February 22, 2005, while working as a registered nurse at Long
10 Beach Memorial Medical Center. The circumstances are more fully set forth in paragraph 10
11 above, and incorporated herein by reference, and as follows.

12 15. Respondent acted unprofessionally and inappropriately in the manner she interacted
13 with Patient C.K. in that she harassed Patient C.K. to continue "pushing" when the patient was
14 exhausted and felt like she could no longer continue.

15 16. Respondent acted unprofessionally when she was not helpful to Patient C.K. by being
16 harrassing and yelling at the patient during her labor.

17 17. Respondent acted unprofessionally when she failed to treat Patient C.K. in a
18 respectful manner and establish appropriate rapport with her.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 481677 issued to Pamela
23 Retreiva Evans;

24 2. Ordering Pamela Retreiva Evans to pay the Board of Registered Nursing the
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and

26 Professions Code section 125.3; and

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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: 3/14/11

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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